



**Public Hearing Testimony of
Sharon Palmer, Commissioner
Department of Labor
Labor and Public Employees Committee
February 18, 2014**

Good Afternoon Senator Osten, Representative Tercyak, Senator Markley and Representative Smith and members of the Labor and Public Employees Committee. Thank you for the opportunity to provide you with testimony regarding **House Bill No. 5070, AAC Volunteer Fire Departments and Ambulance Companies and the Definition of Employer under the Occupational Safety and Health Act**. My name is Sharon Palmer and I am the Commissioner of the Department of Labor.

I am here to speak in opposition to the proposed bill. I cannot support this bill due to inclusion of Section 3, Subsection (d). CONN-OSHA enforces state occupational safety and health regulations as they apply to state and municipal employees. Section 3, Subsection (d) of this bill is extremely problematic because the language would prohibit the issuance of citations or penalties unless someone was hurt or killed. CONN-OSHA issues citations and penalties that are considered serious because of the probability of what could happen. It also issues citations that do not rise to the level of a serious violation in order to correct violations and thereby ensure increased safety. CONN-OSHA would not be meeting its mission to protect employees if it was required to wait until someone was seriously injured or killed before it could mandate corrective action. Additionally, this language would render the CONN-OSHA program less effective than federal OSHA's program, and would therefore jeopardize the federal grants USDOL issues to CONN-OSHA to assist in the operation of the program.

I am fully in support of the bill otherwise, if it were to exclude Section 3, Subsection (d). This proposal is otherwise technical in nature and clarifies the Connecticut Department of Labor's jurisdiction over volunteer fire departments and volunteer ambulance companies in the wake of the Connecticut Supreme Court's decision in *Mayfield v. Goshen Volunteer Fire Company, Inc.*, 301 Conn. 739 (2011).

Historically, CONN-OSHA has considered all fire departments, including volunteer fire

departments, under its jurisdiction pursuant to the Occupational Safety and Health Act ("Act"). In 2008, a volunteer fire department challenged this authority. In 2011, the Connecticut Supreme Court ruled that this particular volunteer fire department, though not necessarily all volunteer fire departments, was not covered by the Act. HB No. 5070 seeks to technically correct the definition of "employer" under the Act to ensure coverage of all Connecticut volunteer fire department and volunteer ambulance departments by CONN-OSHA.

Generally, Federal OSHA has determined that it does not have jurisdiction over volunteer fire departments or volunteer ambulance companies because of the volunteer departments' affiliation with municipalities. Federal OSHA only has jurisdiction over private entities and does not have jurisdiction over volunteer fire departments or volunteer ambulance companies because of its determination that there is no employer/employee relationship.

A 2008 letter of interpretation from Federal OSHA specifically states:

"As you may be aware, Federal OSHA does not generally cover volunteer firefighters. While Federal OSHA would cover volunteer companies established as private sector entities, with one or more paid employees, it does not cover state and local government employees. The Occupational Safety and Health Act of 1970 encourages states to assume responsibility for their own occupational safety and health programs under plans approved by the U.S. Department of Labor. Each state plan must provide coverage for public employees of the state and political subdivisions. That coverage must be at least as effective as the coverage provided to private sector employees. Whether volunteer firefighters are covered by a state plan depends on whether the applicable state plan considers them employees for purposes of coverage."

Without this legislation, certain volunteer fire departments and volunteer ambulance companies would not be protected under either state or federal law. HB No. 5070 will allow CONN-OSHA to protect our volunteer firefighters and ambulance workers. Again, this is only true if Section 3, Subsection (d) is removed from the proposed bill. If that subsection remains in the proposed bill, then I adamantly oppose such proposed legislation.

Thank you for the opportunity to provide this testimony. I am available to answer any questions you may have.